

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE, JURISDICTION
CRIMINAL WRIT PETITION NO.2132 OF 2005**

Mr.Mohmed K. Shaikh ..Petitioner.

Versus

Mr.D.Shivandan & Ors. ..Respondents.

....

Mr.Sanjay Sawant Advocate for the Petitioner.
Mr.D.S.Mhaispurkar, APP, for the State.

....

**CORAM : D.G.DESHPANDE AND
SMT.V.K.TAHILRAMANI, JJ.**

DATED : MARCH 09, 2006.

P.C.:

. Heard learned Advocate for the petitioner
and the learned APP for the State.

. This Petition is filed by the brother of
the detenu. The date of detention order is 20th
April, 2005. Only ground is pressed before us by
the learned Counsel for the petitioner i.e.
Ground No.IV. As per that ground, the petitioner
has sent his representation through his Advocate
to the Superintendent, Yerwada Central Prison on

6th June, 2005. It was received by the Jailor on 11th June, 2005 and from the affidavit-in-reply of the jailor, filed in this Petition on 18th November, 2005, the jailor has stated that he could not send the report till 8th November, 2005 and the explanation given by him is that there were about 3200-3300 prisoners and the entire burden was only on three persons. Admittedly, this could not be a ground for sending the representation belatedly. The learned APP could not justify the delay. The delay in sending report is about five months and that this ground alone is sufficient to quash and set-aside the detention order. Therefore, the Petition is allowed and detention order is quashed. Rule is made absolute.

(D.G.DESHPANDE, J.)

(SMT.V.K.TAHILRAMANI, J.)